

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, RI 02903

INSURANCE REGULATION 25

AUTOMOBILE INSURANCE ~~MERIT-RATING PLAN~~

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Section 1 Authority

These Regulations are promulgated in accordance with authority granted by R.I. Gen. Laws §§ 27-9-~~5~~.1 et seq., ~~and~~ 31-47-18 and 42-14-17.

Section 2 Purpose

The purpose of this Regulation is to set forth rules and procedural requirements which the Insurance Commissioner deems necessary to carry out the provision of a uniform minimum guideline for insurance industry usage in the State of Rhode Island as relates to ~~non-fleet~~ motor vehicles insurance-insured issued by companies doing business in this State. All other safe-driver point systems shall be discontinued upon the adoption of this uniform assessment and credit program until and unless approved by the Insurance Division.

Section 3 Definitions

As used in this Regulation:

- A. ~~Insurance Commissioner" for the purpose of this Regulation shall mean the administrative head of the Insurance Division as set forth in R.I. Gen. Laws § 42-14-5 or his designee.~~ "Chargeable Accident" shall mean any motor vehicle accident which occurred within three (3) years of the most recent Chargeable Accident or Moving Violation other than those wherein the operator is fifty percent (50%) or less at fault and the property damage loss payment is less than one thousand dollars (\$1,000) or the individual proves any one or more of the criteria set forth in Section 8 of this Regulation.
- B. "Company" ~~for the purpose of this Regulation~~ shall mean an insurance company, corporation or other entity authorized to transact insurance business in this State.
- C. "Department" ~~for the purpose of this Regulation~~ shall mean the Department of Business Regulation.
- D. "Insurance Commissioner" shall mean the Director of the Department of Business Regulation or his or her designee.
- E. "Insurance Score" shall mean a number or rating that is derived from an algorithm, computer application, model or other process that is based in whole or in part on credit history.
- F. "Merit Rating Plan" for the purpose of this regulation shall mean a system of rules and/or plans for imposing automobile insurance rate assessments and credits based upon an individual's accident or violation record.
- G. "Moving Violation" shall mean any violation of statute or ordinance which requires operation of a motor vehicle as an element of the offense, and which occurred within three (3) years prior to the time the policy is issued or renewed.
- D. ~~"Non-Fleet Vehicle" for the purpose of this Regulation shall mean any motor vehicle classified and rated by a company for inclusion under an automobile insurance policy for which rates have been approved by the Department of Business Regulation, Insurance Division, pursuant to R.I. Gen. Laws § 27-9-1 et seq with the exception that such vehicles shall not be included under any fleet type insurance.~~
- E. ~~"Merit Rating Plan" for the purpose of this regulation shall mean a system of rules and/or plans for imposing automobile insurance rate assessments and credits based upon an individual's accident or violation record.~~
- F. ~~"Chargeable Accident" for the purpose of this regulation shall mean an automobile accident in which the operator of the vehicle is determined to be more than fifty (50%) at fault.~~

Section 4 Scope

This ~~R~~Regulation shall apply to all ~~non fleet private passenger~~ automobile rates filed with the Department on behalf of companies seeking to satisfy the requirements of R.I. Gen. Laws §§ 27-9-1 *et seq* and 31-47-18.

Section 5 Additive amounts for policy assessment

Companies shall develop and have approved for use within the State of Rhode Island programs showing an additive amount for assessment(s) to individual(s) as the result of a ~~e~~Chargeable ~~automobile a~~Accident(s) and/or ~~Moving v~~Violation(s), as defined in this Regulation without regard to age, sex or where the motor vehicle is garaged. These additive amounts must be clearly shown as a flat dollar rate and may vary by coverage, liability limits, age and price of car, physical damage deductible, etc. However, the additive amount must be reasonable, not excessive, nor unfairly discriminatory.

Section 6 Reductive amounts for policy credits

Companies shall develop and have approved for use within the State of Rhode Island programs showing a reductive amount for credit(s) to individual(s) as a result of their ~~safe driving record~~lack of Chargeable Accident(s) and/or Moving Violations, as defined in this Regulation without regard to age, sex or where the motor vehicle is garaged. These reductive amounts must be clearly shown as a flat dollar rate and may vary by coverage, liability limits, age and price of car, physical damage deductible, etc. However, the reductive amount must be reasonable, not excessive, nor unfairly discriminatory.

Section 7 Premium Surcharges

No insurer shall charge a higher premium as a result of any loss which is not in conformance with R.I. Gen. Laws § 27-9-4 and § 27-9-53. Insurers must offer each insured the lowest premium for which that insured qualifies, within the insurer or group, at policy issuance and renewal. No insurer shall place an insured into a non-standard tier or company solely based upon prior non-standard placement.

No insurer may establish a premium surcharge or penalty, remove a discount, decline an award of credits, tier or retier, company placement or otherwise alter premium for any loss(es) other than a Chargeable Accident or Moving Violation. Insurers may not establish "loss free discounts" or "tiers" which take into account losses which are not Chargeable Accident(s) or Moving Violation(s) as defined in this Regulation, and/or which occurred at any time more than three (3) years prior to the time the policy is issued or renewed.

No insurer may charge an increased premium, including an increase in premium which occurs by moving the insured into or out of a "tier", as a result of an insured being sixty-five (65) years or older, as prohibited by R.I. Gen. Laws § 27-9-4(a)(5).

Any premium increases for a permitted purpose shall be instituted only at renewal of the policy. This does not apply to alterations of the underlying risk, in which case the premium may be altered but only to account for the alteration of the risk.

Section 78 **Chargeable Accident**

An accident will not be deemed chargeable nor any surcharge assessed against an individual who can show one of the following:

- (a) the automobile involved in the motor vehicle accident was legally parked and unattended at the time of the damage;
- (b) that the owner or operator has received at least ~~50~~fifty percent (50%) reimbursement from the other driver involved in the automobile accident;
- (c) that the individual has received a judgment in a court of law against the other owner or operator involved in the accident for at least ~~50~~fifty percent (50%) of the loss incurred;
- (d) that there has been a determination by a law enforcement agency that the damage inflicted on the owned or operated vehicle was done by an individual operating a stolen vehicle whether or not that individual was apprehended; ~~or~~
- (e) that the other operator or owner of the vehicle involved in the automobile accident with the insured vehicle has had his license and/or registration suspended by action of the Registry of Motor Vehicles for failing to satisfy financial responsibility requirements;
- (f) that the loss or incident involved a bus driver, while in the course of his or her employment for the Rhode Island public transit authority or private or municipal school bus companies;
- (g) that the loss involved a law enforcement officer, while in the course of his or her employment for the state, city, or town police departments; or
- (h) that the loss or incident involved a commercial vehicle driver, defined as the driver of a motor vehicle with a gross weight in excess of ten thousand (20,000) pounds or a motor vehicle used for public livery, while in the course of his or her employment.

Section 89 **Duration of Assessments**

The additive assessments resulting from the adoption of this regulation shall be included on new and renewal policies issued by companies doing business in the State of Rhode Island for a maximum of three (3) policy years (using the anniversary date of the

original coverage as the starting point of such experience measuring period or a period not to exceed forty five (45) days in advance of such time) following the date of accident, conviction, pleading or a suspension of license.

Section 910 Appeal

Any dispute as to the applicability of assessments shall be governed in accordance with the Registry of Motor Vehicles requirement for listing of accidents or convictions with the burden of proof resting upon the owner or operator of the insured vehicle to show that he falls within one of the above mentioned exceptions.

Section 11 Use of Insurance Score in Rating or Underwriting

No insurer is required to use an Insurance Score in rating any insurance policy. If an insurer chooses to utilize Insurance Scores in insurance rating, where applicable statutes allow such use, the insurer must, in addition to the requirements of R.I. Gen. Laws § 27-9-56, comply with the following:

1. Demonstrate the predictive nature of the Insurance Score utilized in conjunction with its rate filing.
2. Confirm that none of the “negative factors” listed in R.I. Gen. Laws § 27-9-56(c) have been utilized in determining an Insurance Score or in the rating or underwriting process.
3. If the insurer chooses to use an Insurance Score it may do so only in accordance with R.I. Gen. Laws § 27-9-56 and this Regulation and may do so only upon initiation or renewal of the policy.
4. If the use of an Insurance Score increases the insured’s rate in any manner, including making the insured ineligible for a “tier”, the insurer shall explain, in writing sent to the insured, the manner in which the Insurance Score was calculated, why the Insurance Score resulted in an increased premium, the exact amount of the premium increase and the insured’s rights pursuant to R.I. Gen. Laws § 27-9-56 (a)(2).
5. If requested by the insured, pursuant to R.I. Gen. Laws § 27-9-56(a)(2), the insurer must obtain an updated Insurance Score once every two (2) years unless the insured is in the most favorably priced tier of the insurer or group or credit was not used for the insured when the policy was initially written. If required by R.I. Gen. Laws § 27-9-56(a)(2), once the updated Insurance Score is obtained the insurer shall:
 - a. Provide a decreased premium to the insured at renewal, if the updated Insurance Score indicates that the insured is entitled to a decrease in premium.

- b. If the updated Insurance Score indicates that the insured may be charged an increased premium, the insurer may only increase the premium at renewal due to the Insurance Score if:
- i. the worsening is due to a bankruptcy, tax lien, garnishment, foreclosure or judgment; or
 - ii. a subsequent Insurance Score undertaken no sooner than six (6) months later confirms the worsening in score.

Section 12 Severability

If any provision of this Regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable.

Section 130 Effective Date

This Regulation and the amendments thereto shall be effective as indicated below. After the effective date insurers, rating and advisory organizations must review existing rates, rules and forms and submit all revisions to the Department by March 31, 2005 to comply with the provisions of this Regulation. Any rate, rule or form filing that is submitted or pending with the Department between the effective date of this Regulation and March 31, 2005 must be submitted or amended in accordance with the 2004 amendments.~~shall become effective July 1, 1992.~~

EFFECTIVE DATE:	January 1, 1979
CORRECTIONS:	March 5, 1979
AMENDED:	July 1, 1992
	February 17, 1997
REFILED:	December 19, 2001
<u>AMENDED:</u>	<u>October , 2004</u>